

FLATHEAD COUNTY PLANNING AND ZONING OFFICE
SUBDIVISION REPORT # FPP-16-01
WHITEFISH RIVER TRAILS PHASE 2-5
JULY 22, 2016

A report to the Flathead County Planning Board and Board of Commissioners regarding a request for preliminary plat approval of Whitefish River Trails Phase 2-5, a major subdivision that would create 16 clustered residential lots with 1 open space lot to be developed in 4 phases. Located north of Kalispell along Whitefish Stage, the subject property is accessed by Mannington Road approximately 1/3 mile east of Whitefish Stage.

The Planning Board will hold a public hearing in the Earl Bennett Building conference room at 1035 First Avenue West, Kalispell on June 8, 2016 to review the proposal and make a recommendation to the Flathead County Commission. Final action on this proposal by the governing body must be taken prior to the review deadline of July 11, 2016. Documents pertaining to this application are available for public inspection at the Flathead County Planning and Zoning Office, located in the Earl Bennett Building at 1035 First Avenue West, Kalispell, Montana.

UPDATE: This staff report went to the June 8th Planning Board meeting and it was determined that additional information and analysis was needed before a decision could be made. This staff report has been updated with new information in places labeled 'UPDATE'.

I. APPLICATION REVIEW UPDATES

A. Land Use Advisory Committee/Council

The proposal is not located within the advisory area of a Land Use Advisory Council.

B. Planning Board

The Flathead County Planning Board will hold a public hearing on the proposed subdivision on June 8, 2016 and make a recommendation to the Flathead County Board of Commissioners. This space is reserved for a summary of the Planning Board's discussion and recommendation.

UPDATE: The Planning Board met on June 8, 2016 to hold a public hearing regarding the proposed subdivision. At the hearing staff gave a brief presentation of the proposal including the proposed conditions and findings. The applicant's technical representative gave a presentation and 6 members of the public spoke against the proposal. The Planning Board discussed issues relating to the project including parkland requirements, roadway/driveway access to Lot 21, and phasing. At that time it was determined that more information was needed before a decision could be made and the public hearing would be continued at the August 10, 2016 Planning Board meeting.

C. Commission

The Flathead County Board of Commissioners will review this proposal after the public hearing conducted by the Planning Board and prior to September 12, 2016 which is the end of the revised 60 working day statutory review period. This space will contain an update regarding the Flathead County Commission review of the proposal.

II. GENERAL INFORMATION

A. Project Personnel

i. Applicant/Owner

Conservation Land Use LLC
31 Bar H Drive
Kalispell, MT 59901

ii. Technical Assistance

Sands Surveying, Inc.
2 Village Loop
Kalispell, MT 59901

B. Project Description

The proposed subdivision would create 17 single-family residential lots with 16 of the lots clustered toward western side of the property. A 42.48 acre parcel located along the Whitefish River serves as the open space lot and can be developed with 1 single family dwelling per the Flathead County Zoning Regulations. The clustered lots would be served by shared wells and individual wastewater treatment systems and the open space lot will utilize an individual well and septic system. Primary access to the subdivision would be from Mannington Road and the applicants are requesting a variance to paving the rest of Mannington Road to Lot 21. Four additional lots, known as Whitefish River Trails Phase 1/Subdivision #292, were granted preliminary plat approval on November 12, 2015. The proposed subdivision lots would be developed in 4 phases by the year 2020 according to the phasing plan provided.

UPDATE: Preliminary Plat approval of Subdivision #292 was granted on November 12, 2015 and a pre-application meeting for Whitefish River Trails Phase 2-5 was held on November 3, 2015. Per Section 4.1.1 and Appendix A FCSR, a pre-application meeting is required before a preliminary plat application can be submitted and a pre-application meeting associated with a proposal is valid for 6 months before an additional pre-application meeting is required. At the time of the Whitefish River Trails Ph. 2-5 pre-application meeting, it was not made known to staff that the application would be submitted before final plat approval of Subdivision #292. It was during the review period that staff made it aware to the applicant that per Section 4.7.7 (o), *“Only one active approved preliminary plat is permitted on an individual lot or parcel at a time. Any existing approved preliminary plat shall be withdrawn and file terminated at the time of approval of the second preliminary plat.”* While the applicant has expressed that this provision does not apply to the proposed development because the lots do not overlap and are intended as “phases” and not separate subdivision proposals, strict interpretation of Section 4.7.7 (o) would imply preliminary plat approval of Whitefish River Trails Ph. 2-5, if granted approval before Subdivision #292 goes to final plat, would void the preliminary plat approval of Subdivision #292.

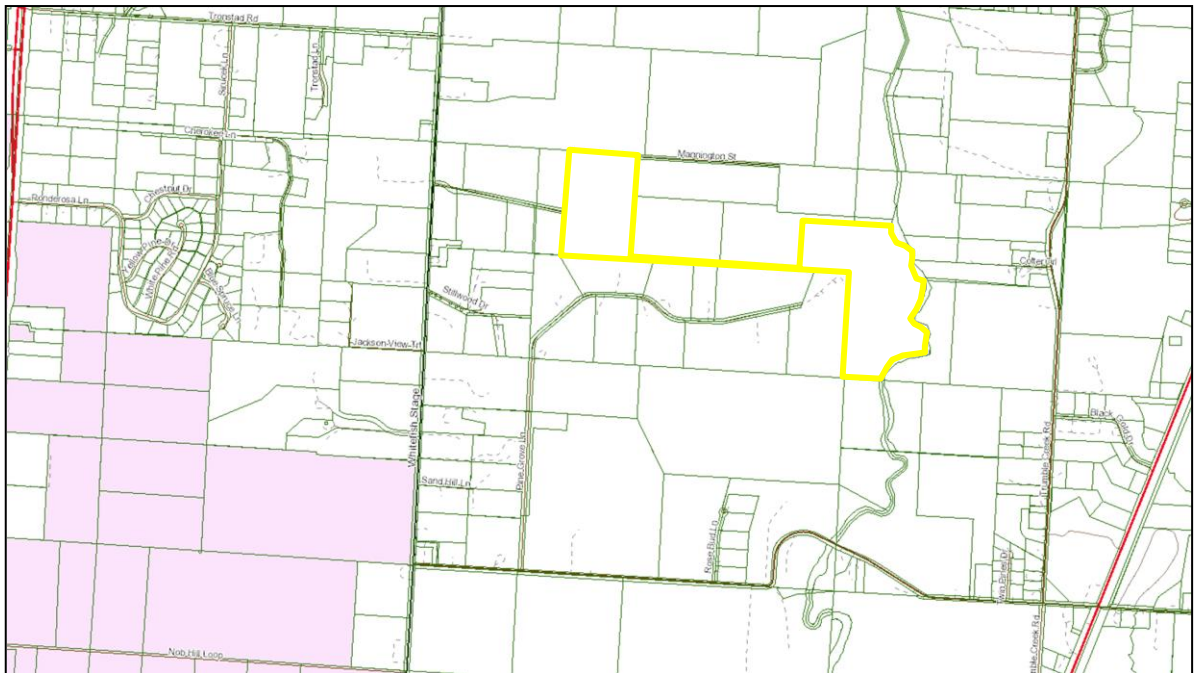
C. Legal Description of Subject Property

The proposed subdivision would occur upon one tract of record that can be legally described as Tract 1 of COS 20164 AKA Assessor’s Tract 2, located in Section 20 and 21 Township 29 North, Range 21 West, P.M.M., Flathead County, Montana.

D. Detailed Location

Located approximately 1 mile north of Kalispell, the subject property is located approximately 1/3 mile east of Whitefish Stage along Mannington Street (Figure 1).

Figure 1- Subject property (highlighted yellow) and vicinity



E. Subdivision Layout Detail- Updated per preliminary plat received July 12, 2016

i. Total Subdivision Acreage:	63.089 acres
ii. Acreage in Lots:	60.191 acres
iii. Acreage in Roads:	2.898 acres
iv. Total Park/Common Area/Open Space Acreage	42.478 acres
v. Minimum Lot Size	1.122 acres
vi. Maximum Lot Size	42.478 acres
vii. Overall Gross Lot Density:	1 dwelling unit per 3.711 acres

Although the subject property is zoned SAG-5 which requires a minimum lot size of 5 acres. The applicant is utilizing the residential clustering provisions in AG and SAG districts outlined in Section 5.09 Flathead County Zoning Regulations (FCZR). The clustering provisions allow for a “density bonus” of 150% of allowable density in the zoning district, or 1 dwelling unit per 3.33 acres.

UPDATE: The revised preliminary plat notes that Subdivision #292 (aka Whitefish River Trails Ph. 1) lots 1-4 are located within the subject property and contain 5.389 acres)

viii. Easements

The preliminary plat indicates:

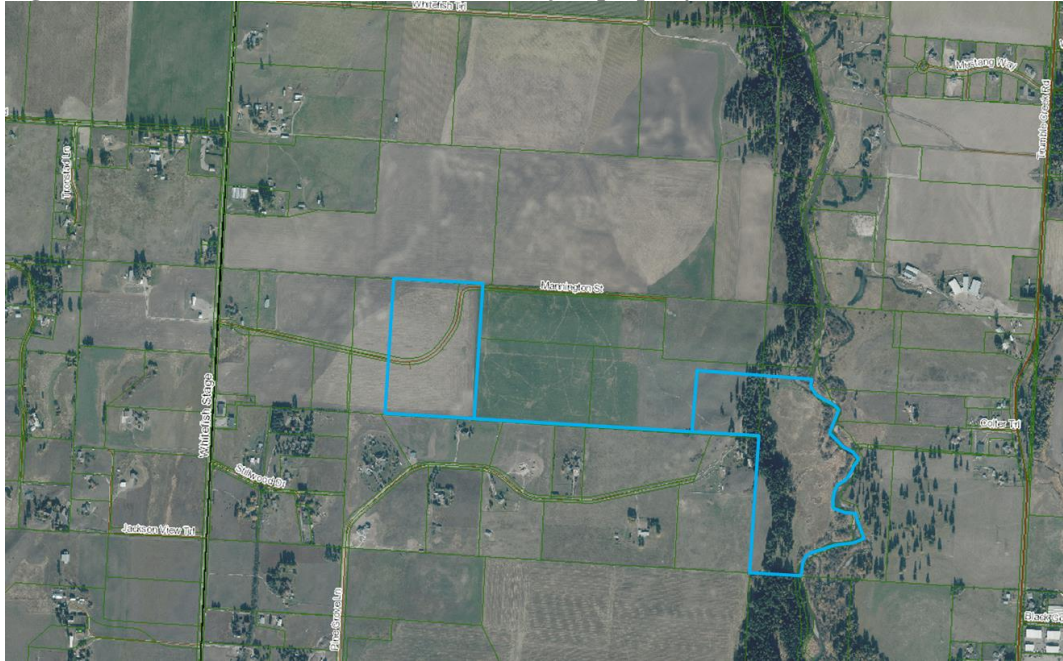
- Existing 60-foot wide private road and utility easements for Mannington Road;
- Proposed 60-foot wide private road and utility easement for Maudie Street North;
- Proposed 60-foot wide private road and utility easement for Maudie Street South- now extended to proposed Lot 21;
- Existing 29.971 acre Conservation Easement per Warranty Easement Deed 1999-119-08510. This easement is valid until April 20, 2029;
- Existing 30-foot wide access easement per COS 17667 only for access to the 29.971 acres of Conservation Easement;

F. Administrative Characteristics

i. Current Land Use

The subject property is primarily comprised of an open field to the west which has historically been used for hay, alfalfa and winter wheat production (Figure 2). The portion of land utilized for the open space, located to the east, has been under USDA Conservation Easement since 1999 and has been allowed to remain in its natural state.

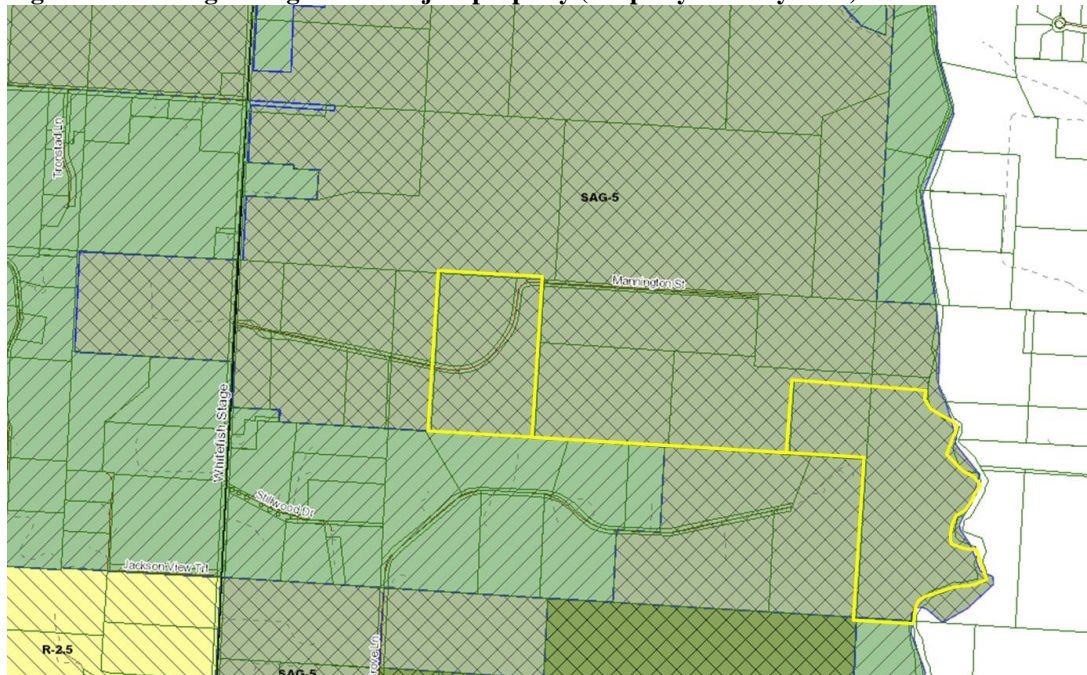
Figure 2 - Current land use and land cover (subject property shown blue)



ii. Current Zoning

Located north of the City of Kalispell, the subject property is currently zoned SAG-5 within the Highway 93 North Zoning District (see Figure 3 below).

Figure 3 - Existing zoning on the subject property (Property shown yellow)



iii. Proposed Land Use

The request is for preliminary plat approval of Whitefish River Trails Phase 2-5, which will consist of 17 lots on 63.089 acres. Sixteen of the lots will be clustered residential lots along Mannington Street. The seventeenth lot is a 47.478 acre open space lot with a USDA Conservation Easement on 29.971 acres along the Whitefish River. Because the open space lot is over 20 acres in size, one single family residence maybe allowed on the lot within an appropriate building envelope. The open space is intended for private recreational use and the applicant has indicated that primitive trails for resident's use may be constructed on this lot. Until the USDA Conservation Easement expires in 2029, the property will be maintained in accordance with the requirements of wetland reserve program outlined in Warrant Easement Deed 199911908510.

UPDATE: Because Subdivision #292 utilized the cluster provisions for the 4 residential lots and the amended 'open space' lot now incorporates the 17 proposed lots, the overall density of the development was considered. The 20 residential lots on 68.478 acres leads to a density of one dwelling unit per 3.42 acres which meets the required density of no more than 1 unit per 3.33 acres. It has been the Planning and Zoning Office determination that the open space lot is not included in the density calculations.

G. Area Characteristics

i. Description of Area Surrounding Proposed Subdivision

Located north of Kalispell along Whitefish Stage, the character of the area surrounding the proposed subdivision is predominantly agricultural and rural residential. Properties along Whitefish Stage and Ponderosa Lane consist of estate size residential development while the area north and east of the subject property has been utilized for agricultural production for many years.

ii. Zoning

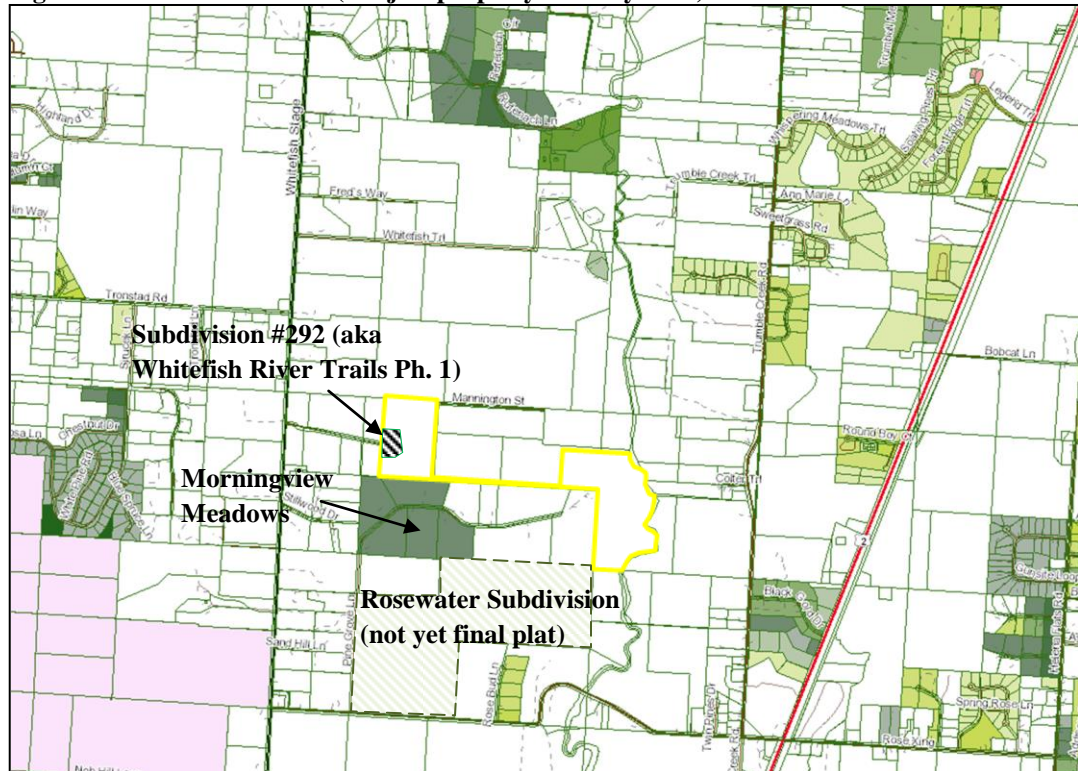
As shown in Figure 3 the subject property is located within an area zoned ‘SAG-5 Suburban Agricultural’. The applicants are proposing to utilize the provisions outlined in Flathead County Zoning Regulations (FCZR) Section 5.09 Residential Clustering in AG and SAG Districts.

iii. Land Uses

As shown in Figure 2, the subject property is situated in an area developed with a mix of agricultural and residential uses.

iv. Previously Considered Subdivisions in Area

Figure 4 - Area subdivisions (Subject property shown yellow)



As shown in Figure 4 above, a few subdivisions are located within the vicinity of the proposal including Morningview Meadows immediately south of the subject property. The Rosewater subdivision located to the south of the subject property was granted preliminary plat approval and may apply for final plat approval. A number of the smaller lots in the area were created by deed or exemptions by certificate of survey (COS).

H. Utilities and Services

i. Water

Shared wells, individual well on Lot 21

ii. Wastewater

Individual wastewater treatment systems

iii. Electricity

Flathead Electric Cooperative

iv. Natural Gas

Northwestern Energy

- v. **Solid Waste**
Contract Haul- North Valley Refuse
- vi. **Telephone Service**
CenturyLink
- vii. **School District(s)**
Kalispell School District #5, Flathead High School
- viii. **Fire District(s)**
West Valley Fire District
- ix. **Police**
Flathead County Sheriff's Department

III. COMMENTS RECEIVED

A. Agency Comments

The subdivision file contains a copy of the agency referral document sent on March 25, 2015. As of the date of completion of this staff report, the following comments have been received:

- Wendee Jacobs, Flathead City-County Health Department
 - Comment: "The proposed subdivision requires review under the Sanitation in Subdivision Act (Title 76, Chapter 4, Part 1). During review process, potable water, wastewater treatment, stormwater drainage, and solid waste disposal will be addressed."
- James Chilton, Flathead County Solid Waste District
 - Comment: "The District requests that all new subdivision use a private hauler to bring solid waste to the landfill. The outlying green box sites should not be used as the primary method of solid waste disposal. North Valley Refuse is the (PSC) Public Service Commission licensed hauler in this area.

After reviewing the project summary, I believe that solid waste management is being followed properly."
- David Prunty, Flathead County Road and Bridge Department
 - Comment: "At this point the County Road Department does not have any comments on this request."
- Julie Weber, Bonneville Power Administration
 - Comment: "In reviewing the proposed plan, it appears this request will not affect any BPA facilities located within this area. BPA does not have any objections to the approval of this request at this time."
- Marc Pitman, DNRC Water Resources Division
 - Comment: "Water Right Review – Existing water right 76LJ 1650-00 for irrigation out of the Whitefish River is appurtenant to property, Tract 2, owned by Conservation Land Use, LLC... There is no water right on record for the riverfront property TR5A geocoded as: 07-4078-21-2-01-20-0000.

Individual or shared wells can filed on up to a combined appropriation of 10 AF within the 20 lot cluster development. This is only 0.5 AF/year per lot. On lots over an acre in size owners will likely want to irrigate from ¼ to 1 acre of lawn and garden. At just ¼ acre of lawn and garden for 20 lots at least 12.5 AF/year will be needed by the owners for lawn and garden. Domestic use will be an additional 7 to 10 AF/year minimum for 20 SFR. A total of 19.5 to 22.5 AF/year minimum will be needed for this cluster development. If this is the case, a water right permit will be required prior to DEQ approval of this subdivision.

Floodplain Review – A portion of Tract 5A is mapped as part of the 1% Zone AE floodplain and floodway. The BFE on the reach of the Whitefish River on Tract 5A is about 2937.6' NAVD 88. According to the plat this area will be placed in a conservation easement.

- Mindy Cochran, Flathead County GIS
 - Comment: “ As proposed on the Preliminary Plat of Whitefish River Trails, Phase 2-5, the road names Maudie Street North and Maudie Street South have not been approved for use by the Flathead County GIS Department. These road names do not meet the criteria outlined in Flathead County Resolution No. 1626, which specifically excludes the use of first names in a road name. ... Prior to Final recordation of this plat, valid road names for the other two roads should be coordinated and reserved with Flathead County GIS Department.

B. Public Comments

In accordance with Section 4.0.14 Flathead County Subdivision Regulations (FCSR), adjacent property notification was mailed to neighboring property owners within 150 feet of the proposed subdivision on May 20, 2016, legal notice was published in the Daily Interlake on May 22, 2016, and notice of the proposal and public hearing was physically posted onsite on May 25, 2016.

As of the date of the completion of this staff report, only one public comment has been received.

- John and Susan Santangelo
 - Comment: “We, along with Jeremiah Maynard, are permittees for the approach permit to the subject property. The permit we signed, after the roadbed was constructed without a permit, is for ‘up to 12 lots’. The permit states that any change would require a new permit. There are many reasons for not making this a major access. This is a dangerous stretch of road with limited sign distance. We have witnessed many accidents in the short time we have been there. At this time, it appears there are already (9) nine lots that are visibly being developed including ours with many more planned. John and I will not even consider signing or modifying a new access permit through our property.”

Any written public comment received after May 25th will be summarized verbally and entered into the public record during the Planning Board hearing on June 8, 2016. Anyone wishing to provide verbal public comment may do so in person at the June 8, 2016 Planning Board hearing.

UPDATE: No additional public comments have been received as of the June 8th Planning Board. Any written public comment received after July 27th will be summarized verbally and entered into the public record during the Planning Board hearing on August, 10, 2016. Anyone wishing to provide verbal public comment may do so in person at the August 10, 2016 Planning Board hearing.

IV. LOCAL GOVERNMENT REVIEW

A. Review Criteria

Findings in this portion of the report are applicable to the impacts of the proposed subdivision on the review criteria listed.

UPDATE: Impacts as a result of Subdivision #292, from this point on called Whitefish River Trails Ph. 1, are reviewed as part of this report per the First Impact Criteria Report and supporting documentation as found in the Subdivision #292 file.

i. Impact on Agriculture

According to the Environmental Assessment, the subject property has been utilized for agricultural production for many years, specifically crops of alfalfa, hay and winter wheat. Based

on topography, it would appear that the most utilized land for agriculture exists toward the western side of the lot where the 16 clustered residential lots will be developed. The applicant has stated that “over 80% of the 63 acres of property has been in agricultural production for many years.” It would therefore appear that the development would remove approximately 20 acres of agricultural land from productive use.

While the subject property is currently zoned SAG-5 and therefore could be utilized for agricultural production on acres of at least 5 acres in size, the Web Soil Survey has indicated that the property is not considered prime farmland. Because the proposal includes clustering of residential lots on non-prime farmland, it can be reasoned that the 16 clustered lots on approximately 2 acre lots are more beneficial to the preservation of agricultural land than developing 16 5-acre parcels that might not necessarily be utilized for commercial-grade hay or winter wheat production.

UPDATE: Because the impact on agriculture as a result of the development will include the 4 residential lots part of Whitefish River Trails Ph. 1, it is expected that approximately 26 acres will be removed from agricultural production. All 26 of these acres are considered ‘non-prime farmland’ although 35% of this area has soil classifications of Class 4 or less. According to the NRCS irrigated soil classifications (UPDATED Figure 6), soils in Class 4 “have very severe limitations that reduce the choice of plants or that require very careful management, or both.” In fact the soil classification descriptions indicate that the majority of the farmland has a classification of 4 which is lowest farmland classification before the lot is restricted to “mainly pasture, rangeland, forestland, or wildlife habitat.” The site has insignificant Class 2 soils which have fewer limitations to agricultural production.

UPDATED Figure 5: NRCS Web Soil Survey Farmland Classification



UPDATED Figure 6: NRCS Web Soil Survey Irrigated Soil Classification

Tables – Irrigated Capability Class – Summary By Map Unit					
Summary by Map Unit – Upper Flathead Valley Area, Montana (MT617)					
Map unit symbol	Map unit name	Rating	Acres in AOI	Percent of AOI	
Aa	Alluvial land, poorly drained	5	23.9	34.3%	
Bh	Blanchard fine sand, 7 to 12 percent slopes, wind eroded		3.6	5.2%	
Bk	Blanchard fine sand, 12 to 35 percent slopes		7.0	10.0%	
Bv	Blanchard very fine sandy loam, 20 to 45 percent slopes		10.9	15.6%	
Ke	Kalispell loam, 0 to 3 percent slopes	2	0.0	0.0%	
Ta	Tally, Blanchard, and Flathead soils, 0 to 3 percent slopes	4	24.4	34.9%	
Tb	Tally, Blanchard, and Flathead soils, 0 to 3 percent slopes, eroded	4	0.0	0.1%	
Totals for Area of Interest			69.8	100.0%	

Description – Irrigated Capability Class
<p>Land capability classification shows, in a general way, the suitability of soils for most kinds of field crops. Crops that require special management are excluded. The soils are grouped according to their limitations for field crops, the risk of damage if they are used for crops, and the way they respond to management. The criteria used in grouping the soils do not include major and generally expensive landforming that would change slope, depth, or other characteristics of the soils, nor do they include possible but unlikely major reclamation projects. Capability classification is not a substitute for interpretations that show suitability and limitations of groups of soils for rangeland, for woodland, or for engineering purposes.</p> <p>In the capability system, soils are generally grouped at three levels—capability class, subclass, and unit. Only class and subclass are included in this data set.</p> <p>Capability classes, the broadest groups, are designated by the numbers 1 through 8. The numbers indicate progressively greater limitations and narrower choices for practical use. The classes are defined as follows:</p> <p>Class 1 soils have few limitations that restrict their use.</p> <p>Class 2 soils have moderate limitations that reduce the choice of plants or that require moderate conservation practices.</p> <p>Class 3 soils have severe limitations that reduce the choice of plants or that require special conservation practices, or both.</p> <p>Class 4 soils have very severe limitations that reduce the choice of plants or that require very careful management, or both.</p> <p>Class 5 soils are subject to little or no erosion but have other limitations, impractical to remove, that restrict their use mainly to pasture, rangeland, forestland, or wildlife habitat.</p> <p>Class 6 soils have severe limitations that make them generally unsuitable for cultivation and that restrict their use mainly to pasture, rangeland, forestland, or wildlife habitat.</p> <p>Class 7 soils have very severe limitations that make them unsuitable for cultivation and that restrict their use mainly to grazing, forestland, or wildlife habitat.</p> <p>Class 8 soils and miscellaneous areas have limitations that preclude commercial plant production and that restrict their use to recreational purposes, wildlife habitat, watershed, or esthetic purposes.</p>

Finding #1 - Impact on agriculture would occur as a significant portion of the subject property has been utilized for agricultural production in previous years, however impacts are assumed to be acceptable because the property is not considered prime farmland, and clustering the residential lots with higher density would appear to preserve large scale farming activities in the area instead of developing 16 5-acre lots.

UPDATED Finding #1- Impact on agriculture would occur because approximately 26 acres of land previously utilized for crops of alfalfa, hay and winter wheat would be transitioned to residential use, however the quality of the soils indicate that they are not prime farmland or of a soil capability class that should be specifically preserved.

ii. Impact on Agricultural Water User Facilities

As indicated in the submitted Environmental Assessment, the subject property does not contain any “shared agricultural water works, canals, irrigation ditches, pump houses, etc. The property is not located within an agricultural water district.”

Marc Pitman of the DNRC was contacted on March 25, 2016 for comments pertaining to the project. He indicated that there is an existing water right for irrigation out of the Whitefish River appurtenant to property owned by Conservation Land Use, LLC. The applicant has indicated that this water right feeds an irrigation system for the subject property and adjacent property and the landowner intends to sever the irrigation rights from the subdivision property and retain them on the adjacent agricultural land. There is another irrigation system that is located on the southern end of the open space lot but this pump and water line is located within an easement and is owned with the water right by the adjacent landowner. It appears that there will be minimal impacts on agricultural water user facilities because the existing water rights will be severed from the subject property and transferred along with the irrigation infrastructure to the adjacent property utilized for agricultural production and easements exist for legal access to the irrigation pump located on the open space lot for the adjacent property owner’s beneficial use.

Finding #2- There would be minimal impact to agricultural water user facilities because the subject property does not contain any shared agricultural water works, canals, irrigation ditches or located within an agricultural water district, the irrigation water right associated with the subject property will be severed and transferred to adjacent agricultural land and easement exists to protect the neighbor’s access to the irrigation pump located on the proposed open space lot.

Impact on Local Services

1. Water and Wastewater

The proposal indicates that the clustered residential lots will be served by shared wells and individual wastewater treatment systems. Lot 21 will utilize an individual well and wastewater treatment system if the lot is developed with a single family dwelling. While the open space lot will not need to be reviewed under the Sanitation in Subdivisions Act because of the size of the lot, the size of the buildable envelope and analysis of adjacent soils and wells suggest that the lot would have sufficient room and soil characteristics to accommodate a well and septic system.

According to the Environmental Assessment, the 16 clustered lots will utilize a total of 6,720 gpd for domestic use and 12.5 acre/feet of irrigation. A 30,000 gallon tanker recharge facility will also be connected to one of the wells for fire protection. Because the total water usage for the proposal will exceed the 35 gallons per minute and 10 acre feet per year, the applicant will need to secure a water right for the proposed subdivision. This analysis is consistent with the comments provided by Marc Pitman of DNRC.

Based on an environmental analysis conducted onsite for the 16 clustered sites, it appears that the water quality and quantity is appropriate. In December 2015, 16 test holes were dug

indicating no high ground water. Based on the analysis conducted by Environmental Consulting, it would appear that adequate water quality and quantity exists within the area. Shared well users agreements will be required during DEQ review and an acceptable example was provided with the application materials.

As indicated in the submitted application, the plan for wastewater treatment is to use individual septic systems to serve the needs of each lot within the subdivision. The Environmental Assessment indicates that a total of 5950 gpd of wastewater will be produced as a result of the subdivision based on wastewater flows of 350 gallons per day. As with all subdivisions and according to comment by Wendee Jacobs of the Flathead County Environmental Health Department, both water and wastewater services for the proposed subdivision lots less than 20 acres in size will be required to be reviewed and approved as applicable by the Flathead County Environmental Health Department and the Montana Department of Environmental Quality.

UPDATE: The 4 residential lots as part of the Whitefish River Trails Ph. 1 was reviewed by MDEQ and received approval (EQ #16-1296) on November 24, 2015. Each lot was approved for a single well and individual wastewater treatment systems. While the total 20 lots were not reviewed together, the entire use of the development will require review.

By: Environmental Consulting Service
2 Village Loop
Kalispell, MT 59901
(406) 257-0679
Date: January 22, 2016

Lot Layout of:
WHITEFISH RIVER TRAILS, PHASE 2-5
A Subdivision
Located in N½N½ Sec. 20 and W½NW½ Sec. 21, T.29N., R.21W., P.M., M., Flathead County, Montana
SCALE: 1" = 100'

SB89°51'53"E 860.73'(R)
100' 50' 0' 100' 200'

Test Pit #1
018' 14" 018'

Lot 19
1.255 Ac.

Lot 20
1.267 Ac.

Lot 15
1.369 Ac.

Lot 14
1.281 Ac.

Lot 18
1.228 Ac.

Lot 17
1.052 Ac.

Lot 16
1.337 Ac.

Lot 13
1.220 Ac.

Lot 12
1.424 Ac.

Lot 11
1.122 Ac.

Lot 10
1.259 Ac.

Lot 9
1.457 Ac.

Lot 8
1.404 Ac.

Lot 7
1.219 Ac.

Lot 6
1.185 Ac.

Lot 5
1.530 Ac.

Lot 4

Lot 3

Lot 2

Lot 1

Previously Approved
Lots 1, 2, 3, 4
EQ# 16-1296

Whitefish River Trails, Phase 1

Maudie Street North

Maudie Street South

Maudie Street

Test Pit #9

Test Pit #8

Test Pit #7

Test Pit #5

Test Pit #4

Test Pit #3

Test Pit #2

Test Pit #1

Test Pit #6

Test Pit #10

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be required to be reviewed and permitted by the Montana Department of Environmental Quality as applicable prior to their installation and operation.

UPDATED Finding #3- The proposal for water, wastewater, and solid waste management for the proposed Whitefish River Trails development appears to be appropriate because the first phase has received and permitted by the Montana Department of Environmental Quality (EQ#16-1296) and adequate water quantity and quality appears to exist for Phase 2-5 proposed wells, sufficient soils and depth to water table exist for individual wastewater treatment systems, the water proposal would be required to be reviewed by the Department of Natural Resource Conservation for applicable water rights, and the water and wastewater systems for Phase 2-5 would be required to be reviewed and permitted by the Montana Department of Environmental Quality as applicable prior to their installation and operation.

2. Schools

The proposal is located in the Kalispell School District #5 and Flathead High School District. Based on correspondence with the school Superintendent, Mark Flatau, submitted by the applicant it appears that the school district will be able to handle the additional students. The subdivision appears to be within a 5 mile radius of K-12 school facilities. Based on an average of .31 school age children per dwelling, the development would add an additional 6 school-aged children once the 17 lot residential subdivision is fully developed.

UPDATE: Per the staff report of Whitefish River Trails Ph. 1, approximately 2 students would be added to the local school system. Since Phase 2-5 will add an additional 6 students, a total of 8 students would be added to the Kalispell and Flathead High School District. Since the school districts were provided information on both subdivision applications and no concerns were voiced, it would appear that the school districts will be able to accommodate the 8 new school-aged children.

3. Mail Delivery

The developer is proposing a centralized mailbox location. The location of the centralized mail facility serving the proposed subdivision shall require review and written approval from the local postmaster as a condition of final plat approval and should meet the location requirements outlined in Section 4.7.28 FCSR.

4. Recreation

As a major element of the proposed clustered subdivision is the 42.478 acre open space lot, the application appears to satisfy the applicable subdivision 'parkland' requirements. FCSR Section 4.7.24 (d) states that *"the Commission shall waive the parkland dedication requirements if it determines that one of the following applies:*

- i. The proposed subdivision provides for a planned unit development or other development with land permanently set aside for parkland sufficient to meet the needs of the residents of the development and equals or exceeds the area of the required parkland dedication pursuant to Subsection (e);"*

Because the proposed subdivision incorporates 42.478 acres of dedicated open space as required for a clustered subdivision and this amount of land exceeds the amount of parkland required for 17 residential lots, the dedication of additional parkland shall be waived. It appears that the land is suitable to meet the needs of the residents because the lot will be accessed by a 20 foot pedestrian easement over a 10 foot wide strip of land to access Lot 21 and "primitive trails" are to be developed along the low-lying areas of the open space lot.

UPDATE: On July 13, 2016, the applicant provided a new application and letter noting that parkland dedication will be taken care of via cash-in-lieu as provided for in Section 4.7.24(c). Since parkland is not required for first minor residential lots and the remaining 16 residential

lots as part of Whitefish River Trails Ph. 2-5 are between 1.01 and 3.00 acres in size, the 20.904 acres require 5% of the gross area dedicated as parkland or provide cash-in-lieu. The developer will be required to provide the cash equivalent of 1.04 acres of land at the time of Phase 2 final plat. Because parkland will not be located on the open space lot, the pedestrian easement to Lot 21 has been removed and residents of the Whitefish River Trails development will not be granted access or use of the lot unless designated easements for trails and public use are established in the future.

Finding #4- Impacts on local services would be acceptable with the imposition of standard conditions because the proposed subdivision would be located within the Kalispell School District #5 which has indicated ability to accommodate students, a centralized mailbox is proposed and shall be approved by the postmaster, and sufficient existing and proposed recreational facilities will be provided as the 42.478 acre open space lot will satisfy parkland requirement.

UPDATED Finding #4- Impacts on local services would be acceptable with the imposition of standard conditions because the proposed subdivision would be located within the Kalispell School District #5 and Flathead High School which has indicated ability to accommodate students, a centralized mailbox is proposed and shall be approved by the postmaster, and cash-in-lieu of parkland for the 16 residential lots will be provided at the time of final plat of Phase 2.

5. Roads

As shown on the preliminary plat, primary access to the subdivision would be from Mannington Road. Mannington Road is a paved subdivision road that will run from the western edge of the proposed subdivision to the northeast corner of Lot 14. The roadway was proposed during preliminary plat review of Subdivision 292 and that portion outside and within the boundary of the subdivision is or will be paved to Flathead County Road and Bridge Department Standards. An updated approach permit from Whitefish Stage will be required at the time of final plat for the additional lots.

In addition to Mannington Road, Lots 5-10 and Lots 17-21 will be directly access by two internal subdivision roads currently labeled Maudie Street North and Maudie Street South. Comment from the Flathead County GIS Department has indicated that the names of these roads are not approved and appropriate alternatives per Resolution 1626 will need to be reserved by final plat approval.

The phasing plan indicates that “Maudie Street South” will be constructed through the cul-de-sac with Lots 5-8 and 21 at Phase 2, Mannington Street will be completed to the northeast corner of Lot 14 during the development of lots 9-12 at Phase 3, and “Maudie Street North through the cul-de-sac will be developed with Lots 17-20 at Phase 5. Based on the design of the lots, it appears that each lot will have direct access to a paved roadway at the time of final plat of each phase.

The application also includes draft Declaration of Covenants, Conditions, and Restrictions (CC&Rs) that describe road maintenance provisions. The roads would be maintained in passable condition year round and each lot would be responsible for a pro-rata share of road maintenance costs.

UPDATE: Since the June 8th Planning Board meeting, the applicants moved the roadway to Lot 21 from the northern boundary of the adjacent lot to the southern boundary via Maudie Street South. The applicants have placed a compliant 60 ft. road and utility easement that can accommodate roadways complaint with Road and Bridge Department standards. However, the applicant has requested a variance to paving the roadway to the 22 ft. width and would like to pave the roadway to 12 ft.

In addition to the internal subdivision roads, the CC&Rs should be amended to require the lot owners to pay their pro-rata share of maintenance of Mannington Street, the primary access road to the subdivision.

Finding #5- The road system appears to be acceptable with the imposition of standard conditions as primary access would be from Mannington Road, a new approach permit would be required for the access off Whitefish Stage, each lot has legal and physical access provided by internal subdivision roads that will be built to Flathead County Road and Bridge Department standards, and appropriate maintenance provisions have been included within the draft CC&Rs.

UPDATED Finding #5- The road system appears to be acceptable with the imposition of standard conditions as primary access would be from Mannington Road, a new approach permit would be required for the access off Whitefish Stage, each lot has legal and physical access provided by internal subdivision roads that will be built to Flathead County Road and Bridge Department standards with the exception of access to Lot 21 if the variance is granted, and the draft CC&Rs will be acceptable if language is included for pro-rata maintenance of the primary access road, Mannington Street.

6. Fire/Emergency Medical Services

The site is currently located within the West Valley Rural Fire District and a fire station is located approximately 1/3 mile from the subdivision along Whitefish Stage. The applicant has indicated in the Environmental Assessment that a 30,000 gallon recharge tank attached to one of the shared wells will be developed for fire protection. While the location of the recharge tank has yet to be determined, the developer has included maintenance provisions in the CC&Rs once the recharge tank has been installed.

The Kalispell Regional Medical Center is located approximately 4 driving miles away. Based on the location of the subdivision outside the city limits of Kalispell, emergency medical service response times should be consistent with those of the nearby city.

7. Police Services

The property is located in an unincorporated area of Flathead County and is therefore served by the Flathead County Sheriff. Although solicited, the Sheriff's Department has provided no comment. Due to the proximity to the City of Kalispell, it does not appear that delayed response times are expected.

8. Solid Waste Disposal

The developer is proposing contract haul as a mechanism for solid waste disposal as requested of all subdivisions by the Flathead County Solid Waste Department. James Chilton with Flathead County Solid Waste Department has noted that the North Valley Refuse will be the PSC responsible for solid waste disposal in this area.

9. Other Utilities

As indicated in the application, Flathead Electric will provide electrical power, CenturyLink will provide telephone service, and Northwestern Energy will provide gas. Electric, telephone, cable TV, and gas utilities are required to be placed underground within the existing and proposed utility easements to serve the lots within the subdivision. The developer has indicated that the utilities will be installed underground with each phase.

Finding #6- Impacts on local services would be acceptable with the imposition of standard conditions because the lots within the proposed subdivision would utilize contract haul services for solid waste management, would be served within an acceptable response time by the West Valley Fire District and Flathead County Sheriff's Department in the event of an emergency, and would have access to phone, cable TV, gas and electric utilities extended underground in conformance with the applicable regulations.

iii. Impact on the Natural Environment

1. Water Quality

As shown on the preliminary plat, Whitefish River serves as the eastern boundary of the 42 acre open space lot. According to the Environmental Assessment, the 16 clustered residential lots are at least 3,229 feet away from the river with the exception of the building envelope on Lot 21. Because Lot 21 is a designated open space lot per the clustering provisions in Section 5.09 FCZR, only one single family dwelling may be developed on the property. Because this lot contains a steep bluff that drops down to areas designated as 100 year floodplain and wetlands, the building envelope has been placed on top of the hill approximately 97 feet above the Base Flood Elevation. Additionally, the Environmental Assessment and associated analysis by Environmental Consulting indicates a 1540 year phosphorus breakthrough and low nitrate levels.

The stormwater management plan indicates all stormwater drainage would be managed onsite through retention and absorption in the roadside infiltration swales and no stormwater drainage would enter Whitefish River as a result of runoff from the subdivision. As with all subdivisions, water, wastewater and stormwater management for the proposed subdivision would be required to be reviewed and approved as applicable by the Flathead County Environmental Health Department and the Montana Department of Environmental Quality.

Finding #7- Adverse impacts to water quality as a result of the subdivision are not anticipated because all proposed lots or building envelopes would be situated on higher ground well away from Whitefish River, all lots would be served by individual septic systems designed in accordance with applicable state and county regulations, stormwater management would prevent direct discharge of stormwater from entering area surface waters, and the water supply, wastewater treatment, and stormwater management would be required to meet applicable requirements of the Flathead County Environmental Health Department and the Montana department of Environmental Quality.

2. Air Quality

Impacts to air quality are presumed to be minimal or may be mitigated as the subdivision is accessed by a paved local road and the internal subdivision road network is proposed to be paved, with the exception of the access to Lot 21 if the requested variance to paving is granted. Because the majority of the lots will be accessed by a paved roadway and activities on site will be limited to single family residential use, it is not anticipated that air quality will be negatively impacted by the development. The applicant has submitted a Dust Abatement Plan compliant with Section 4.7.14 FCSR, however this should be modified to incorporate provisions for long term maintenance and dust abatement of the unpaved roadway to Lot 21 if the variance is granted. A note should be required to be placed on the face of the final plat that requires the owners of all lots abide by the guidelines set forth in the plan during and after site construction and development activities.

UPDATE: Impacts to air quality are expected to be minimal as the applicants have decided to pave the roadway to Lot 21. This would mean that all lots will be accessed via paved roadways.

3. Impact of Noise

Development of residences on the subdivision lots would likely generate minimal noise during construction, and it is not likely they all would be built simultaneously. The proposed residential use is not anticipated to generate permanent continuous impacting noise to area residents or wildlife.

Finding #8- Adverse impacts to air quality and of noise are anticipated to be minimal and acceptable with the imposition of conditions as all roads accessing the subdivision will be paved, with the exception of Lot 21 if the variance to paving is granted, and short term construction related noise is the only anticipated noise to be generated by the subdivision development.

UPDATED Finding #8- Adverse impacts to air quality and of noise are anticipated to be minimal and acceptable with the imposition of conditions as all roads accessing the subdivision will be paved and short term construction related noise is the only anticipated noise to be generated by the subdivision development.

4. Impact to Flora

The subject property is comprised of two distinct topographic/environmental areas: the clustered residential lots are on generally flat, open agricultural land while the open space lot contains sloping hills and a forested bluff that drops over 90 feet to the flat bank along Whitefish River. The 30 acre conservation easement that covers the bank area has a significant portion of wetland and riparian vegetation. Because the bank is located within an open space lot which will be prevented from further subdivision development and because the bank area is protected by a USDA Conservation Easement in effect until 2029, it appears that impact to the vegetation found along the bluff and the wetland will not be adversely affected. Additionally, the open space lot and river front will be managed in accordance with the Riparian Resource Management Plan and CC&Rs.

Figure 5: View of hillside and bank from Whitefish River



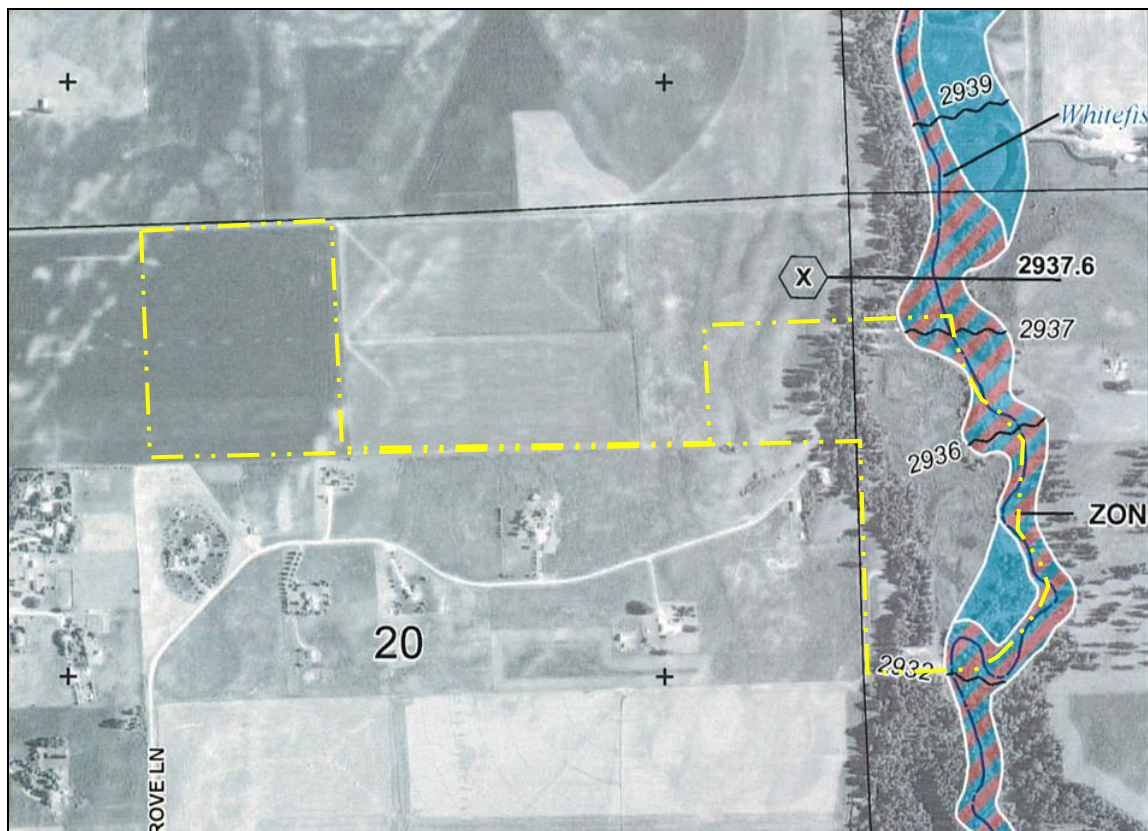
Finding #9- Impacts to flora are anticipated to be minimal and acceptable as the majority of the clustered residential lots are located on flat open, agricultural land, the wetlands and forested hill on the Lot 21 open space are protected from further subdivision and development, and

management of wetland and riparian vegetation is protected by a Riparian Resource Management Plan and CC&Rs.

5. Impact to Floodplain

According to FIRM Panel 30029C1420J, the eastern portion of Lot 21 contains areas of floodplain designated as Zone AE. The entirety of the Special Flood Hazard Area (SFHA) is located along the banks of Whitefish River and therefore will not be impacted by the development of the clustered residential lots. Additionally, the single family dwelling which may be located on the open space lot will be placed within the designated building envelope which is approximately 97 feet above the Base Flood Elevation (BFE). According to the Flathead County Subdivision Regulations, “areas delineated as 100-Year Floodplain may be designated as a ‘No Build Zone’ on the final plat”. Because the SFHA will be protected from development as a result of the Conservation Easement, the CC&Rs and the zoning provisions for clustered developments, the preliminary plat should not be required to label the floodplain as a “No Build Zone”.

Figure 6: Floodplain designations



Finding #10- Although the subject property contains floodplain designated ‘Zone AE’, there is no anticipated impact to floodplain because proposed building sites would be located outside of the 1% annual chance flood area (100-year floodplain) and no further development would be allowed in the SFHA because of the zoning regulations, CC&Rs, and Riparian Resource Management Plan.

6. Impact to Riparian/Wetland Areas

As previously mentioned, the eastern boundary of Lot 21 is bounded by Whitefish River and therefore a Riparian Resource Management Plan was provided with the preliminary plat application. According to the Plan and the topography illustrated on the preliminary plat, the

riparian/wetland area can be described as the flat river bank and adjacent bluff. According to the Environmental Assessment and Riparian Resource Management Plan, the area is home to 4 Species of Concern, including the Great Blue Heron, Westslope Cutthroat Trout, Bull Trout, and Little Brown Myotis. Staff visit to the site confirmed that the riparian area also contains typical wetland vegetation. Because the riparian and wetland area is located within and Conservation Easement and zoning regulations prevent further subdivision or development of the area, the plan does not provide specific protection strategies besides allowing the area to remain in its natural, undeveloped state. According to the CC&R's, the owner of Lot 21 and the HOA, to a lesser extent, will be responsible for managing vegetation that becomes unsafe. The only disturbance of the area will be from the development of primitive trails for use by Whitefish River Trails subdivision residents. The Montana Fish, Wildlife and Parks was contacted for agency comment but no response was received by the time this staff report was written. Because the development of the clustered residential lots will be located at least 3,000 feet away, significant impact to the riparian and wetland areas is not expected.

UPDATE: Impact to the riparian and wetland areas is anticipated to be minimal as the open space lot will not be utilized by Whitefish River Trails residents and trails will not be constructed in areas with sensitive environmental characteristics unless the owner of Lot 21 grants easements for the "primitive trails" initially discussed as part of the proposal.

Finding #11- While the submitted application materials identify jurisdictional wetlands and riparian vegetation onsite, adverse impacts to riparian and wetland vegetation would be minimized and adequately mitigated because the area is encompassed within a Conservation Easement, the CC&Rs include maintenance provisions for the riparian and wetland area, and the Riparian Resource Management Plan notes that the area is intended to remain in the current undeveloped and natural state.

7. Impact to Historical Features

The Environmental Assessment indicates there are no known historic, archeological, or cultural sites on the subject property.

iv. Impact on Wildlife

Information provided in the Environmental Assessment and substantiated by the Montana Natural Heritage Program's Species of Concern report indicate this general area of the County (Township 29 N, Range 21 W) may be frequented by species of concern including Westslope Cutthroat Trout, Bull Trout, Little Brown Myotis, and Great Blue Heron. Because the majority of these species of concern will be found along the riparian and wetland areas on the open space lot which are protected from further development and intend to be preserved in a natural state, it is not expected that impact to wildlife will require additional mitigation. In fact, by clustering the residential lots and preserving 42 acres of open space, the proposal appears to reduce fragmentation of wildlife habitat.

v. Impact on Wildlife Habitat

The Environmental describes how the property has been identified by the Montana Department of Fish, Wildlife and Parks 'Crucial Areas Assessment' as having an overall crucial habitat ranking of Class 2 and is mapped as Big Game Winter Range. With the exception of primitive recreational trails, the habitat for Whitetail deer, Little Brown Myotis, Great Blue Heron, and fish species will not be impacted because the open space lot is intended to be preserved in a natural state. In fact, by clustering the residential lots and preserving 42 acres of open space, the proposal appears to reduce fragmentation of wildlife habitat.

Finding #12- Minimal impacts to wildlife and wildlife habitat are anticipated because the proposed subdivision would incorporate clustering of residential development resulting in less fragmentation of wildlife habitat, the majority of the species of concern will not be impacted by the development of the open agricultural land, and the open space lot will be preserved in an undeveloped natural state.

vi. Impact on Public Health and Safety

1. Flood Risk

The subject property contains Whitefish River along the east boundary which contains ‘Zone AE’ designated floodplain according to FIRM Panel 30029C1420J. According to the Environmental Assessment, the Base Flood Elevation is approximately 2938’ while the building envelope for the dwelling on Lot 21 would be at approximately 3035’. Because the SFHA is located on the open space lot and no development besides primitive trails is permitted outside of the building envelope illustrated on the preliminary plat, impact on public health and safety relating to flood risk will be minimal.

Finding #13- Although the subject property contains floodplain designated ‘Zone AE’, impact to public health and safety relating to flood risk will be minimal because the proposed building envelope on Lot 21 will be at least 97 feet above the BFE and no other subdivision improvements besides primitive trails will be developed near the 100 year floodplain.

2. Water and Wastewater Treatment

As previously stated, the proposed clustered lots will each utilize shared wells and individual septic systems located onsite and designed and constructed for single-family residential use. Each primary and replacement drainfield location will be required to meet the standards set forth by the Montana Department of Environmental Quality and Flathead City-County Health Department with regard to location and non-degradation analysis. Groundwater monitoring conducted in 2009 indicated groundwater was at an appropriate depth to accommodate the placement of individual drain fields within the proposed subdivision. Additional test holes were monitored on the proposed clustered lots for MDEQ review and confirm that sufficient depth to groundwater exists for development of the 16 clustered lots. Nitrate sensitivity analysis and phosphorous breakthrough analysis were conducted for MDEQ review and indicate insignificant nitrate levels and a phosphorous breakthrough time of 1540 years. Water and wastewater treatment systems for the proposed subdivision would be required to be reviewed and approved as applicable by the Flathead County Environmental Health Department and the Montana Department of Environmental Quality.

3. Stormwater

The submitted Stormwater Drainage Plan establishes the conceptual plan for stormwater management and indicates no stormwater drainage would enter vicinity surface waters as a result of runoff from the subdivision. The plan appears to adequately manage stormwater through roadside retention swales. As there would be more than one acre of ground disturbed through the installation of subdivision improvements it is anticipated the developer will be required to obtain a General Permit for Stormwater Discharges Associated with Construction Activity issued by the MDEQ.

Finding #14- The effects of this proposed subdivision on public health and safety in regard to the proposal for water, wastewater treatment, and stormwater management is acceptable because the shared wells, individual wastewater treatment systems and stormwater management plan would be required to be reviewed and approved as applicable by the Flathead County Environmental Health Department and the Montana Department of Environmental Quality.

4. Road Network

Legal and physical access will be provided to each lot from the proposed internal road system which would extend from Mannington Road, “Maudie Street North” and “Maudie Street

South". The new internal roads would be private and are proposed to be designed, built and paved to current applicable county standards. Copies of the Preliminary Plat and Environmental Assessment provided to Dave Prunty of the Flathead County Road and Bridge Department and comment indicates no outstanding concerns which suggest the proposal is acceptable in regard to the capability of the road network to safely accommodate the new traffic of the proposed subdivision. An updated approach permit for the additional lots will be required by final plat.

UPDATE: After the July 8th Planning Board meeting the applicants decided to move the roadway to Lot 21 from the northern-most boundary of the adjacent lot to the southern boundary along the 10 ft. strip. The roadway will be within a 60 ft. private road and utility easement which can accommodate a Road and Bridge Department complaint roadway, although the applicant has requested to pave the roadway to only 12 ft. instead of 22 ft.

Finding #15- Impacts of the proposed subdivision on the area road network appear to be acceptable because adequate legal and physical access exists to the subdivision and comments from the Flathead County Road and Bridge Department indicate the proposal is acceptable in regard to the capability of the road network.

5. High Voltage Electric Lines/High Pressure Gas Lines

There are no exposed high voltage electric lines or high pressure gas lines on the subject property.

6. Fire and Emergency Services

The property is not mapped as being within the Wildland Urban Interface, and the subdivision's land cover where the clustered residential lots will be is comprised mainly of grasses. The site is located within the West Valley Fire District and a fire station is located approximately 1/3 mile west of the subdivision on Whitefish Stage. The applicant has indicated in the Environmental Assessment that a 30,000 gallon recharge tank attached to one of the shared wells will be developed for fire protection. While the location of the recharge tank has yet to be determined, the developer has included maintenance provisions in the CC&Rs once the recharge tank has been installed.

The Kalispell Regional Medical Center is located approximately 4 driving miles away. Based on the location of the subdivision outside the city limits of Kalispell, response times should be consistent with those of the nearby city.

7. Geologic Hazards

As shown on the preliminary plat, the subject property is generally flat with no variable terrain along the western side of the property where the residential lots will be developed. Lot 21 consist of rolling terrain towards the west with a sharp bluff that drops approximately 90 feet to the flat bank of Whitefish River. According to the Environmental Assessment, the bluff has experienced instability in the past, however the current owner has maintained vegetation along the slope for stability. The CC&R's and Riparian Resource Management Plan also note that the area should be maintained in a natural condition. While Lot 21 can be developed with a single family dwelling, a building envelope is illustrated on the preliminary plat which is at least 100 feet from the edge of the bluff. Because of this setback, it would appear that geologic hazards should not impact residential buildings or property. However, the developer has indicated that primitive trails will be constructed to access Whitefish River and construction and maintenance of the trails and nearby vegetation should be maintained in order to prevent unsafe pedestrian access. The subject property is not located on any mapped fault lines according to geologic fault data prepared and maintained by the Flathead County GIS Department.

8. Avalanche Hazards

The subdivision is not located in an area of the County considered to be prone to avalanche hazards.

9. Airport Influence Areas

The subject property is not within an airport influence area.

10. Soils

As indicated by the application materials and supporting documentation, soils appear generally comprised of Tally, Blanchard, and Flathead soils with varying slopes and Capability Classes II or IV on the western side of the property and Blanchard soils with slopes between 20-45 percent and Capability Class VI on Lot 21. While the soils located on the western side of the property are appropriate for agricultural use, none of the soil classifications are considered “prime farmland”. Based on the soil survey data, the majority of the soils on the clustered residential lots are not considered limited for development and would not pose a health and safety risk should they be developed.

UPDATE: While the Environmental Assessment and First Impact Criteria Report for Whitefish River Trails Ph. 1 and Ph. 2-5 indicate that the Ta and Tb Tally, Blanchard, and Flathead soils have a capability rating of Iles-1, the more recently compiled data from the NRCS web soil survey indicate these soils have an irrigated and non-irrigated classification of IVE which has more limitations to agriculture but appear to support residential development as they have minimal slopes and low flooding potential.

Finding #16- Minimal risks to public health and safety are anticipated with the imposition of conditions because there are no high voltage electric or high pressure gas lines on or around the subject property, the bluff located on Lot 21 is susceptible to sloughing but will be maintained per CC&Rs, there are no avalanche or airport influence areas, and soils on the subject property appear to be appropriate for development of residential use and associated infrastructure.

B. Compliance with Survey Requirements of 76-3-401 through 76-3-406 M.C.A.

Finding #17- The preliminary plat would conform to all provisions of the Montana Subdivision and Platting Act if it contains all elements required to meet state survey requirements, which would be determined when it is reviewed by the Flathead County Examining Land Surveyor prior to final plat approval.

C. Compliance with the Flathead County Subdivision Regulations

The application includes a request for a variance from FCSR Section 4.7.17(a) which states: “*All internal subdivision roads, with the exception of secondary emergency egress roads, shall be paved, with the exception of secondary emergency roads. Internal roads within ‘recreational vehicle parks’ may or may not be required to be paved, dependent upon whether or not the preliminary plat review identifies potential adverse impacts from dust can be adequately mitigated through the imposition of conditions aimed at minimizing or eliminating impacts from dust;*” The applicant wants to use an unpaved roadway to access Lot 21, the 42 acre open space lot that may be developed with one single family residence. As internal subdivision roads are required to be paved per Section 4.7.17(a) FCSR, the application includes a variance requesting relief from paving of this access.

Subject to compliance with FCSR Section 4.0.11, the Commission shall not approve a variance unless it finds that all of the following are met:

- a. The variance will not be detrimental to the public health, safety, or general welfare or injurious to other adjoining properties;

- The variance request indicates that the applicant considers the portion of roadway from Mannington Road to the proposed Lot 21 is actually a “driveway” shared with neighbors to the north and west. The variance request reasons that because the “driveway” will be utilized by low volume of traffic road dust will be minimal. Additionally, the adjacent lots that are served by the portion of unpaved roadway are currently utilized for agricultural use and do not produce the same ADT as residential use. Potential issues of dust could be mitigated if the Dust Control Plan is modified to include long term dust control of this unpaved portion of roadway.
- b. Due to the physical surroundings, shape, or topographical conditions of the property involved, strict compliance with the regulations will impose an undue hardship on the owner. Undue hardship does not include personal or financial hardship, or any hardship that is self-imposed;
- The stated unique hardship is due to the shape of Lot 21 and the direction of access from Mannington Road. Because the lot is located approximately 2600 feet from the edge of Lot 14 where the end of Mannington Street pavement would be, approximately ½ mile of pavement would be laid for the open space lot. Additionally, because the applicants are utilizing clustering provisions outlined in zoning, it is not possible to develop anything more than a single family dwelling on the 42 acres that the roadway would lead to.
- c. The variance will not cause a substantial increase in public costs, now or in the future;
- Since Mannington Road is a private road no public costs would be expended for use or maintenance of the roadway. Division of the adjacent agricultural land would require subdivision review and the roadway would be at least partially paved to accommodate additional trips unless the division is done by family transfer in which impacts are assumed to be minimal.
- d. The variance will not place the subdivision in nonconformance with any adopted growth policy, neighborhood plan or zoning regulations;
- The application suggests the variance will not place the subdivision in nonconformance with any adopted growth policy, neighborhood plan or zoning regulations because the site is zoned ‘SAG-5’ which is an agricultural/suburban agricultural zoning designation not intended for uses other than farming or residential use. While the Two Rivers Neighborhood Plan indicates that the subject area should accommodate densities of up to 8 residential units per acres, these densities would not be permitted until the zoning is changed.
- e. The variance is consistent with the surrounding community character of the area.
- The application suggests the variance is consistent with the surrounding community character of the area because surrounding local roads including Pine Grove Lane, Whitefish Trail, Fred’s Way, Stillwood, and Rufenach Lane are unpaved. Because the area is predominately low density residential and agricultural, an unpaved roadway to a lot with a density of 1 unit per 42 acres would be consistent with the character of the area.

UPDATE: The updated application includes a request for a variance from FCSR Section 4.7.17 which states: *“All road improvements including approaches, gravel, pavement, curbs, gutters, sidewalks, traffic control devices and drainage systems shall be constructed in accordance with the specifications and standards prescribed in the Flathead County Road and Bridge Departments’ “Minimum Standards for Design and Construction Manual”.* The applicant wants to use a roadway paved to 12 ft. instead of 22 ft. to access Lot 21, the 42 acre open space lot that may be developed with one single family residence. As internal subdivision roads are required to be paved to Flathead County Road and Bridge Department *Minimum Standards for Design and*

Construction which requires, in addition to other road standards, a width of 22 ft. This variance is only for pavement width.

Subject to compliance with FCSR Section 4.0.11, the Commission shall not approve a variance unless it finds that all of the following are met:

- a. The variance will not be detrimental to the public health, safety, or general welfare or injurious to other adjoining properties;
 - The variance request indicates the road would be used solely by the owners or Lot 21 as a driveway for a single residence and not used by members of the public, either vehicle or pedestrian. Based on the information provided, the variance would not be detrimental to public health, safety or general welfare. The request also indicates the reason for the requested variance is because the request will not be injurious to other adjoining property owners because the road width would not affect the easement. Lot 21 will be deed restricted to prohibit further subdivision or potentially affect adjacent properties.
- b. Due to the physical surroundings, shape, or topographical conditions of the property involved, strict compliance with the regulations will impose an undue hardship on the owner. Undue hardship does not include personal or financial hardship, or any hardship that is self-imposed;
 - The variance request indicates the hardship for the applicant lies in the construction of the 'driveway' to the width of 22 feet for 2,586 feet or approximately one half mile. The private road and utility easement to Lot 21 is 60 feet wide, giving the applicant plenty of space to build a 22 foot wide road. This does not appear to qualify as undue hardship because it appears the hardship is financial.
- c. The variance will not cause a substantial increase in public costs, now or in the future;
 - The variance request will not cause a substantial increase in public costs, now or in the future. The application indicates the 'driveway' is private and not open to the general public or other residents of the subdivision. The driveway would not be subject to public expenditures for maintenance or upgrades.
- d. The variance will not place the subdivision in nonconformance with any adopted growth policy, neighborhood plan or zoning regulations;
 - The subdivision falls within jurisdiction of the Flathead County Zoning Regulations, Flathead County Growth Policy, and Two Rivers Neighborhood Plan. The Flathead County Zoning Regulations Section 6.16.020(3) reads *Each roadway shall be not more than 36 feet in width measured at right angles to the center line of the driveway, except as increased by permissible curb return radii. The entire flare of any return radius shall fall within the right-of-way. No roadway shall be less than 10 feet wide for one-way traffic or 20 feet wide for two way traffic.* The Flathead County Growth Policy classifies the proposed road as a local road and is defined as *a roadway that is used for direct access to residential, commercial, industrial, or other abutting properties in areas of lower traffic volumes at low speeds. Typically these roads are located within a subdivision or commercial/business development..* The Growth Policy does require local roads to meet Flathead County Road and Bridge Department *Minimum Standards for Design and Construction* which requires a width of 22 ft but does not have this requirement for driveways. The Two River Neighborhood Plan does not address roadways or driveways. The proposed variance may place the subdivision in nonconformance with zoning regulations and the growth policy.
- e. The variance is consistent with the surrounding community character of the area.

- The surrounding community character of the area is agriculture/residential and many surrounding properties have long, narrow driveways. The roadway will look and act as a driveway and would be consistent with the surrounding community character of the area.

Finding #18- The requested variance sufficiently meets the criteria required for a variance to be granted because the unpaved portion of Mannington Road would provide access to Lot 21 which is an open space lot not to be developed with more than one dwelling; the hardship is based on the location of Lot 21 which is approximately 2600 feet from the end of the paved portion of Mannington Road; granting of the variance will not increase public costs as the variance pertains to the location and construction of a privately maintained subdivision road; the property is zoned for suburban agricultural use and does not address road pavement, the neighborhood plan encourages densities that would require paved roadways but the zoning would need to be changed before that density would be permitted, and unpaved roadways exist in the vicinity due to the low density residential and agricultural character of the area.

UPDATED Finding #18- The requested variance meets some but not all of the criteria required for a variance to be granted because granting the variance would not be detrimental to the public health, safety, or general welfare or injurious to other adjoining properties; would not cause a substantial increase in public costs, now or in the future; and would be consistent with the surrounding community character of the area, however there is not proof of undue hardship and may be out of conformance with the Flathead County Zoning Regulations and Flathead County Growth Policy.

D. Compliance with the Flathead County Subdivision Review Procedure

- i. Pre-application Conference Date**
November 3, 2015
- ii. Application Deadline Date (6 months from pre-application)**
May 3, 2016
- iii. Application Submittal Date**
March 1, 2016
- iv. Completeness Date**
March 3, 2016
- v. Sufficiency Date**
April 15, 2016
- vi. Agency Referral Requests Mailing Date**
April 22, 2016
- vii. Adjacent Property Notification Mailing Date**
May 20, 2016
- viii. Legal Notice Publication Date**
May 22, 2016
- ix. On-site Posting of Public Hearing Date**
May 25, 2016

Finding #19- The proposal has been reviewed as a major subdivision in accordance with statutory criteria and standards outlined in Section 4.4 of the Flathead County Subdivision Regulations effective December 1, 2014.

E. Provision of Easements for the Location and Installation of Planned Utilities

Finding #20- The preliminary plat identifies adequate easements for utilities to serve the subdivision. All other easements associated with this subdivision and the subdivided property shall be clearly located on the Final Plat to satisfy applicable requirements of the Montana Subdivision and Platting Act and the Flathead County Subdivision Regulations.

F. Provision of Legal and Physical Access to Each Parcel

Finding #21- Mannington Road would provide legal and physical access to the subdivision, and the proposed internal road system consisting of Mannington Road and the currently named “Maudie Street North” and “Maudie Street South” would provide legal and physical access to the individual lots. The internal road system would be privately maintained, occurring within a 60 foot wide private road and utility easement, would be constructed and paved in compliance with applicable Flathead County standards and an updated approach permit would be required for the access at Whitefish Stage for the additional lots.

G. Review of Applicable Plans

76-1-605(2)(b) M.C.A states that “A governing body may not withhold, deny, or impose conditions on any land use approval or other authority to act based solely on compliance with a growth policy adopted pursuant to this chapter.” Furthermore, 76-3-608(3) M.C.A. does not contain compliance with the growth policy as a primary criteria by which an individual subdivision proposal must undergo local government review or on which findings of fact are to be based. Review of general conformance with applicable plans is provided as an acknowledgement and consideration of the guidance offered by the information contained in the document(s).

i. Neighborhood Plan

The proposed subdivision is located within the Two Rivers Neighborhood Plan area. The plan designates the property as Urban 2-8 which allows for up to 8 residential units per acre. The plan also encourages the use of open space for regional, community and neighborhood level use. While the proposed subdivision is less dense than the 2-8 units per acre, the current zoning with clustering provisions require at least an average 1 unit per 1.3 acres.

ii. Flathead County Growth Policy

The Flathead County Growth Policy is a general policy document that meets the requirements of 76-1-601, M.C.A. and was updated on October 12, 2012. The location is in an area of the county that is designated as ‘Suburban Agricultural’ on the Flathead County Designated Land Use Map. The proposal appears to substantially meet the general goals and policies applicable to agricultural and residential uses and appears to meet relevant goals and policies applicable to sanitation and access to available services, as defined in Chapters 2-8 of the Flathead County Growth Policy. Regulations adopted by Flathead County used in the review of subdivisions are an implementation of the goals and policies established in the Growth Policy. This proposal conforms to the regulations used in the review of subdivision in Flathead County and is therefore in general compliance with the Flathead County Growth Policy.

H. Compliance with Local Zoning

As previously stated, the proposed subdivision is located in an area of Flathead County that is zoned SAG-5. The subdivision proposal incorporates ‘Cluster housing’, a permitted use in the SAG-5 zoning designation per Section 3.08.020(3). Below is an analysis of how the proposal meets the performance standards outlined in Section 5.09.030 for residential clustering in AG and SAG districts.

Each cluster site shall adhere to the following performance standards:

The cluster sites:

1. *Shall be able to obtain safe and convenient access to a public or private road but individual lot access onto a highway or road is not allowed;*
 - Each clustered residential lot will be access by a paved, subdivision road.

2. Shall be located off of prime agricultural land (SCS soil classification I-IV) to the greatest extent possible when determining a location for the cluster development or, if located within a forested area, not be within an area that is rated as “very high” or “extreme” fire risk by the Montana Department of Natural Resources after subdivision improvements;

- As mentioned in the soils analysis above, the property contains soils with SCS soil classifications IV and VI and none of the soils are considered “prime agricultural land”. Because only a small portion of the property has a soil classification of VI, the residential lots appear to be clustered in an appropriate site. The property is also not classified as “very high” or “extreme” fire risk.

2. Shall have suitable soils for on-site treatment of sewage;

- The USDA Web Soil Survey indicates that all soils are well drained, have low ponding potential, and have a depth to water table of at least 80 inches. Additionally, the MDEQ submittal also indicates suitable soils exist for on-site sewage treatment.

3. Shall not be situated or otherwise associated with any environmentally sensitive area, hazard area, or wildlife habitat of local significance or habitat for endangered or threatened species, big game winter range, waterfowl nesting areas, or other significant wildlife habitat as determined by the Montana Department of Fish, Wildlife and Parks;

- As mentioned in the wildlife and wildlife habitat sections above, the location of the clustered lots does not have any water bodies, wetlands, forests or riparian areas that may be considered environmentally sensitive. While the property has a CAPS overall crucial habitat ranking of 2 and is listed as big game winter range, the property and surrounding area has been used for agriculture for many years. Additionally, the 42.478 acre open space which contains the environmentally sensitive land will likely accommodate the important wildlife and wildlife habitat.

5. Should be situated near the perimeter boundary of the “parent” tract of land in order to maximize the extent of uninterrupted open space;

- The 16 clustered residential lots are located at the western side of the parent tract.

6. Shall not interfere or otherwise conflict with adjoining farming activities;

- Although farming on site will be reduced due to the 16 residential lots, the clustered nature of the subdivision will preserve more open space for farming than if each lot were to meet the 5 acre minimum lot size per SAG-5 zoning. The developer will sever the physical connection to the irrigation pipe and the associated irrigation water rights for the land being subdivided. The subdivision will therefore not significantly interfere with any irrigation infrastructure or conflict with adjoining farming activities.

7. Shall establish minimum setbacks for all structures of 100 feet from the boundary of a highway right-of-way and otherwise conform to the minimum setbacks of the district;

- The subdivision property is not located within 100 feet from the boundary of a highway right-of-way and all structures to be built must meet the minimum setbacks of the SAG-5 district.

8. Shall not be located in:

A. a 100-year floodplain (floodway and flood fringe) as determined by the Federal Emergency Management Agency (FEMA);

- B. areas on sloped banks or within 50 horizontal feet of high water of water bodies or streams;*
- C. wetlands as determined by the U.S. Army Corps of Engineers;*
- D. steep areas in excess of 30% slope or other areas subject to excessive geological hazards; or*
- E. areas where development will be detrimental to significant natural, historic, or cultural resources.*

- As noted above, the clustered lots do not contain 100-year floodplain, rivers, riparian, or wetlands and only Lot 21, the open space lot, will contain areas with slopes in excess of 30%. There are no significant natural, historic or cultural resources impacted by the clustered residential lots.

UPDATE: It was noted at the June 8th Planning Board meeting that Lot 21 appears to have a ‘flag lot’ configuration and such lots are not permitted in SAG-5 zoned areas. The applicant believes that the lot is not considered a flag lot but simply an irregularly shaped lot that is access via a 60 ft right-of-way like all other subdivision lots. However, the definition of a flag lot per Section 7.12.090 FCZR is “*an irregularly shaped lot typified by being almost entirely landlocked and having limited access and/or no direct frontage on a road. Access to a public or private road is typically by an extended strip of land either deeded or by easement.*” It would appear that according to this definition, if the roadway to the house on Lot 21 is accessed via a road constructed to Flathead County Road and Bridge Department standards with a compliant T-turn or cul-de-sac, the lot may not be considered a flag lot. However, if the access to the lot is not constructed to Road and Bridge Department standards and is considered a driveway, then the lot would be arranged in such a manner that it would be a flag lot.

Finding #22- The proposed subdivision is located in an area zoned SAG-5 and the proposed subdivision appears to meet the requirements for Residential Clustering in AG and SAG Districts outlined in FCZR Section 5.09.

UPDATED Finding #23- The configuration of Lot 21 has an extended strip of land that appears to be a ‘flag lot’ if the access to the building envelope is not constructed to Flathead County Road and Bridge Department standards.

V. SUMMARY OF FINDINGS

Finding #1 - Impact on agriculture would occur as a significant portion of the subject property has been utilized for agricultural production in previous years, however impacts are assumed to be acceptable because the property is not considered prime farmland, and clustering the residential lots with higher density would appear to preserve large scale farming activities in the area instead of developing 16 5-acre lots.

Finding #2- There would be minimal impact to agricultural water user facilities because the subject property does not contain any shared agricultural water works, canals, irrigation ditches or located within an agricultural water district, the irrigation water right associated with the subject property will be severed and transferred to adjacent agricultural land and easement exists to protect the neighbor’s access to the irrigation pump located on the proposed open space lot.

Finding #3 - The proposal for water supply and wastewater management for the proposed 17 lots appears to be appropriate because adequate water quantity and quality appears to exist for the proposed wells, sufficient soils and depth to water table exist for individual wastewater treatment systems, the water proposal would be required to be reviewed by the Department of Natural Resource Conservation for applicable water rights, and the water and wastewater systems would be required to

be reviewed and permitted by the Montana Department of Environmental Quality as applicable prior to their installation and operation.

Finding #4- Impacts on local services would be acceptable with the imposition of standard conditions because the proposed subdivision would be located within the Kalispell School District #5 which has indicated ability to accommodate students, a centralized mailbox is proposed and shall be approved by the postmaster, and sufficient existing and proposed recreational facilities will be provided as the 42.478 acre open space lot will satisfy parkland requirement.

Finding #5- The road system appears to be acceptable with the imposition of standard conditions as primary access would be from Mannington Road, a new approach permit would be required for the access off Whitefish Stage, each lot has legal and physical access provided by internal subdivision roads that will be built to Flathead County Road and Bridge Department standards, and appropriate maintenance provisions have been included within the draft CC&Rs.

Finding #6- Impacts on local services would be acceptable with the imposition of standard conditions because the lots within the proposed subdivision would utilize contract haul services for solid waste management, would be served within an acceptable response time by the West Valley Fire District and Flathead County Sheriff's Department in the event of an emergency, and would have access to phone, cable TV, gas and electric utilities extended underground in conformance with the applicable regulations.

Finding #7- Adverse impacts to water quality as a result of the subdivision are not anticipated because all proposed lots or building envelopes would be situated on higher ground well away from Whitefish River, all lots would be served by individual septic systems designed in accordance with applicable state and county regulations, stormwater management would prevent direct discharge of stormwater from entering area surface waters, and the water supply, wastewater treatment, and stormwater management would be required to meet applicable requirements of the Flathead County Environmental Health Department and the Montana department of Environmental Quality.

Finding #8- Adverse impacts to air quality and of noise are anticipated to be minimal and acceptable with the imposition of conditions as all roads accessing the subdivision will be paved, with the exception of Lot 21 if the variance to paving is granted, and short term construction related noise is the only anticipated noise to be generated by the subdivision development.

Finding #9- Impacts to flora are anticipated to be minimal and acceptable as the majority of the clustered residential lots are located on flat open, agricultural land, the wetlands and forested hill on the Lot 21 open space are protected from further subdivision and development, and management of wetland and riparian vegetation is protected by a Riparian Resource Management Plan and CC&Rs.

Finding #10- Although the subject property contains floodplain designated 'Zone AE', there is no anticipated impact to floodplain because proposed building sites would be located outside of the 1% annual chance flood area (100-year floodplain) and no further development would be allowed in the SFHA because of the zoning regulations, CC&Rs, and Riparian Resource Management Plan.

Finding #11- While the submitted application materials identify jurisdictional wetlands and riparian vegetation onsite, adverse impacts to riparian and wetland vegetation would be minimized and adequately mitigated because the area is encompassed within a Conservation Easement, the CC&Rs include maintenance provisions for the riparian and wetland area, and the Riparian Resource Management Plan notes that the area is intended to remain in the current undeveloped and natural state.

Finding #12- Minimal impacts to wildlife and wildlife habitat are anticipated because the proposed subdivision would incorporate clustering of residential development resulting in less fragmentation of

wildlife habitat, the majority of the species of concern will not be impacted by the development of the open agricultural land, and the open space lot will be preserved in an undeveloped natural state.

Finding #13- Although the subject property contains floodplain designated 'Zone AE', impact to public health and safety relating to flood risk will be minimal because the proposed building envelope on Lot 21 will be at least 97 feet above the BFE and no other subdivision improvements besides primitive trails will be developed near the 100 year floodplain.

Finding #14- The effects of this proposed subdivision on public health and safety in regard to the proposal for water, wastewater treatment, and stormwater management is acceptable because the shared wells, individual wastewater treatment systems and stormwater management plan would be required to be reviewed and approved as applicable by the Flathead County Environmental Health Department and the Montana Department of Environmental Quality.

Finding #15- Impacts of the proposed subdivision on the area road network appear to be acceptable because adequate legal and physical access exists to the subdivision and comments from the Flathead County Road and Bridge Department indicate the proposal is acceptable in regard to the capability of the road network.

Finding #16- Minimal risks to public health and safety are anticipated with the imposition of conditions because there are no high voltage electric or high pressure gas lines on or around the subject property, the bluff located on Lot 21 is susceptible to sloughing but will be maintained per CC&Rs, there are no avalanche or airport influence areas, and soils on the subject property appear to be appropriate for development of residential use and associated infrastructure.

Finding #17- The preliminary plat would conform to all provisions of the Montana Subdivision and Platting Act if it contains all elements required to meet state survey requirements, which would be determined when it is reviewed by the Flathead County Examining Land Surveyor prior to final plat approval.

Finding #18- The requested variance sufficiently meets the criteria required for a variance to be granted because the unpaved portion of Mannington Road would provide access to Lot 21 which is an open space lot not to be developed with more than one dwelling; the hardship is based on the location of Lot 21 which is approximately 2600 feet from the end of the paved portion of Mannington Road; granting of the variance will not increase public costs as the variance pertains to the location and construction of a privately maintained subdivision road; the property is zoned for suburban agricultural use and does not address road pavement, the neighborhood plan encourages densities that would require paved roadways but the zoning would need to be changed before that density would be permitted, and unpaved roadways exist in the vicinity due to the low density residential and agricultural character of the area.

Finding #19- The proposal has been reviewed as a major subdivision in accordance with statutory criteria and standards outlined in Section 4.4 of the Flathead County Subdivision Regulations effective December 1, 2014.

Finding #20- The preliminary plat identifies adequate easements for utilities to serve the subdivision. All other easements associated with this subdivision and the subdivided property shall be clearly located on the Final Plat to satisfy applicable requirements of the Montana Subdivision and Platting Act and the Flathead County Subdivision Regulations.

Finding #21- Mannington Road would provide legal and physical access to the subdivision, and the proposed internal road system consisting of Mannington Road and the currently named "Maudie Street North" and "Maudie Street South" would provide legal and physical access to the individual lots. The internal road system would be privately maintained, occurring within a 60 foot wide private road and utility easement, would be constructed and paved in compliance with applicable Flathead

County standards and an updated approach permit would be required for the access at Whitefish Stage for the additional lots.

Finding #22- The proposed subdivision is located in an area zoned SAG-5 and the proposed subdivision appears to meet the requirements for Residential Clustering in AG and SAG Districts outlined in FCZR Section 5.09.

UPDATED SUMMARY OF FINDINGS:

UPDATED Finding #1- Impact on agriculture would occur because approximately 26 acres of land previously utilized for crops of alfalfa, hay and winter wheat would be transitioned to residential use, however the quality of the soils indicate that they are not prime farmland or of a soil capability class that should be specifically preserved.

Finding #2- There would be minimal impact to agricultural water user facilities because the subject property does not contain any shared agricultural water works, canals, irrigation ditches or located within an agricultural water district, the irrigation water right associated with the subject property will be severed and transferred to adjacent agricultural land and easement exists to protect the neighbor's access to the irrigation pump located on the proposed open space lot.

UPDATED Finding #3- The proposal for water, wastewater, and solid waste management for the proposed Whitefish River Trails development appears to be appropriate because the first phase has received and permitted by the Montana Department of Environmental Quality (EQ#16-1296) and adequate water quantity and quality appears to exist for Phase 2-5 proposed wells, sufficient soils and depth to water table exist for individual wastewater treatment systems, the water proposal would be required to be reviewed by the Department of Natural Resource Conservation for applicable water rights, and the water and wastewater systems for Phase 2-5 would be required to be reviewed and permitted by the Montana Department of Environmental Quality as applicable prior to their installation and operation.

UPDATED Finding #4- Impacts on local services would be acceptable with the imposition of standard conditions because the proposed subdivision would be located within the Kalispell School District #5 and Flathead High School which has indicated ability to accommodate students, a centralized mailbox is proposed and shall be approved by the postmaster, and cash-in-lieu of parkland for the 16 residential lots will be provided at the time of final plat of Phase 2.

UPDATED Finding #5- The road system appears to be acceptable with the imposition of standard conditions as primary access would be from Mannington Road, a new approach permit would be required for the access off Whitefish Stage, each lot has legal and physical access provided by internal subdivision roads that will be built to Flathead County Road and Bridge Department standards with the exception of access to Lot 21 if the variance is granted, and the draft CC&Rs will be acceptable if language is included for pro-rata maintenance of the primary access road, Mannington Street.

Finding #6- Impacts on local services would be acceptable with the imposition of standard conditions because the lots within the proposed subdivision would utilize contract haul services for solid waste management, would be served within an acceptable response time by the West Valley Fire District and Flathead County Sheriff's Department in the event of an emergency, and would have access to phone, cable TV, gas and electric utilities extended underground in conformance with the applicable regulations.

Finding #7- Adverse impacts to water quality as a result of the subdivision are not anticipated because all proposed lots or building envelopes would be situated on higher ground well away from Whitefish River, all lots would be served by individual septic systems designed in accordance with

applicable state and county regulations, stormwater management would prevent direct discharge of stormwater from entering area surface waters, and the water supply, wastewater treatment, and stormwater management would be required to meet applicable requirements of the Flathead County Environmental Health Department and the Montana department of Environmental Quality.

UPDATED Finding #8- Adverse impacts to air quality and of noise are anticipated to be minimal and acceptable with the imposition of conditions as all roads accessing the subdivision will be paved and short term construction related noise is the only anticipated noise to be generated by the subdivision development.

Finding #9- Impacts to flora are anticipated to be minimal and acceptable as the majority of the clustered residential lots are located on flat open, agricultural land, the wetlands and forested hill on the Lot 21 open space are protected from further subdivision and development, and management of wetland and riparian vegetation is protected by a Riparian Resource Management Plan and CC&Rs.

Finding #10- Although the subject property contains floodplain designated 'Zone AE', there is no anticipated impact to floodplain because proposed building sites would be located outside of the 1% annual chance flood area (100-year floodplain) and no further development would be allowed in the SFHA because of the zoning regulations, CC&Rs, and Riparian Resource Management Plan.

Finding #11- While the submitted application materials identify jurisdictional wetlands and riparian vegetation onsite, adverse impacts to riparian and wetland vegetation would be minimized and adequately mitigated because the area is encompassed within a Conservation Easement, the CC&Rs include maintenance provisions for the riparian and wetland area, and the Riparian Resource Management Plan notes that the area is intended to remain in the current undeveloped and natural state.

Finding #12- Minimal impacts to wildlife and wildlife habitat are anticipated because the proposed subdivision would incorporate clustering of residential development resulting in less fragmentation of wildlife habitat, the majority of the species of concern will not be impacted by the development of the open agricultural land, and the open space lot will be preserved in an undeveloped natural state.

Finding #13- Although the subject property contains floodplain designated 'Zone AE', impact to public health and safety relating to flood risk will be minimal because the proposed building envelope on Lot 21 will be at least 97 feet above the BFE and no other subdivision improvements besides primitive trails will be developed near the 100 year floodplain.

Finding #14- The effects of this proposed subdivision on public health and safety in regard to the proposal for water, wastewater treatment, and stormwater management is acceptable because the shared wells, individual wastewater treatment systems and stormwater management plan would be required to be reviewed and approved as applicable by the Flathead County Environmental Health Department and the Montana Department of Environmental Quality.

Finding #15- Impacts of the proposed subdivision on the area road network appear to be acceptable because adequate legal and physical access exists to the subdivision and comments from the Flathead County Road and Bridge Department indicate the proposal is acceptable in regard to the capability of the road network.

Finding #16- Minimal risks to public health and safety are anticipated with the imposition of conditions because there are no high voltage electric or high pressure gas lines on or around the subject property, the bluff located on Lot 21 is susceptible to sloughing but will be maintained per CC&Rs, there are no avalanche or airport influence areas, and soils on the subject property appear to be appropriate for development of residential use and associated infrastructure.

Finding #17- The preliminary plat would conform to all provisions of the Montana Subdivision and Platting Act if it contains all elements required to meet state survey requirements, which would be determined when it is reviewed by the Flathead County Examining Land Surveyor prior to final plat approval.

UPDATED Finding #18- The requested variance meets some but not all of the criteria required for a variance to be granted because granting the variance would not be detrimental to the public health, safety, or general welfare or injurious to other adjoining properties; would not cause a substantial increase in public costs, now or in the future; and would be consistent with the surrounding community character of the area, however there is not proof of undue hardship and may be out of conformance with the Flathead County Zoning Regulations and Flathead County Growth Policy.

Finding #19- The proposal has been reviewed as a major subdivision in accordance with statutory criteria and standards outlined in Section 4.4 of the Flathead County Subdivision Regulations effective December 1, 2014.

Finding #20- The preliminary plat identifies adequate easements for utilities to serve the subdivision. All other easements associated with this subdivision and the subdivided property shall be clearly located on the Final Plat to satisfy applicable requirements of the Montana Subdivision and Platting Act and the Flathead County Subdivision Regulations.

Finding #21- Mannington Road would provide legal and physical access to the subdivision, and the proposed internal road system consisting of Mannington Road and the currently named “Maudie Street North” and “Maudie Street South” would provide legal and physical access to the individual lots. The internal road system would be privately maintained, occurring within a 60 foot wide private road and utility easement, would be constructed and paved in compliance with applicable Flathead County standards and an updated approach permit would be required for the access at Whitefish Stage for the additional lots.

Finding #22- The proposed subdivision is located in an area zoned SAG-5 and the proposed subdivision appears to meet the requirements for Residential Clustering in AG and SAG Districts outlined in FCZR Section 5.09.

UPDATED Finding #23- The configuration of Lot 21 has an extended strip of land that appears to be a ‘flag lot’ if the access to the building envelope is not constructed to Flathead County Road and Bridge Department standards.

VI. CONCLUSION

In accordance with the provisions of Section 4.4 of the Flathead County Subdivision Regulations, a review and evaluation of the major subdivision application has been completed by the staff of the Planning Board. The proposed subdivision appears to generally comply with the applicable design standards and subdivision review criteria found in Section 4.7 FCSR with the exception of the requested variance, pursuant to draft Findings of Fact prepared herein, or identified impacts can be mitigated with conditions of approval. Should the Planning Board forward a recommendation of approval of this subdivision to the Flathead County Commissioners, the following conditions should be considered to supplement that recommendation.

VII. CONDITIONS

A. Standard Conditions

1. The developer shall receive physical addresses in accordance with Flathead County Resolution #1626C. All road names shall appear on the final plat. Street addressing shall be

assigned by Flathead County. [Section 4.7.16(g)(iv), 4.7.26(c) Flathead County Subdivision Regulations (FCSR)]

2. The developer shall comply with reasonable fire suppression and access requirements of the West Valley Fire District. A letter from the fire chief stating that the plat meets the requirements of the Fire District (or Department) shall be submitted with the application for Final Plat. [Section 4.7.26(b), FCSR]
3. All areas disturbed during development of the subdivision shall be re-vegetated in accordance with an approved Weed Control Plan and a letter from the County Weed Supervisor stating that the Weed Control Plan has been approved shall be submitted with the final plat. [Section 4.7.25, FCSR]
4. Design and construction of all internal subdivision roads shall be certified by a licensed engineer and constructed and paved as proposed in accordance with the *Flathead County Minimum Standards for Design and Construction*, as applicable. [Sections 4.7.16, 4.7.17 FCSR]
5. With the application for final plat, the developer shall provide a compliant Road Users' Agreement or CC&R document which requires each property owner to bear his or her pro-rata share for maintenance of the roads within the subdivision **and for any integral access roads lying outside the subdivision**. [Section 4.7.15(e), FCSR]
6. All utilities shall be extended underground to abut and be available to each lot, in accordance with a plan approved by the applicable utility providers. [Section 4.7.23, FCSR]
7. The proposed water, wastewater treatment, and stormwater drainage systems for the subdivision shall be reviewed, approved, and permitted as applicable by the Flathead City-County Health Department, and approved by the Montana Department of Environmental Quality. [Sections 4.7.20, 4.7.21 FCSR]
8. The mail delivery site shall be provided with the design and location approved by the local postmaster of USPS. A letter from the postmaster stating that the developer has met their requirements shall be included with the application for final plat. [Section 4.7.28, FCSR]
9. In order to assure the provisions for collection and disposal of solid waste, the developer shall submit a letter from the applicable solid waste contract hauler stating that the hauler is able to provide service to the proposed subdivision. [Section 4.7.22, FCSR]
10. The owners shall abide by the guidelines set forth in the approved Dust and Air Pollution Control and Mitigation Plan during and after site construction and development activities. [Section 4.7.14, FCSR]
11. All road names shall be approved by Flathead County and clearly identified and house numbers will be clearly visible from the road, either at the driveway entrance or on the house. House numbers shall be at least four inches in length per number. [Section 4.7.26(c), FCSR]
12. The following statements shall be placed on the face of the final plat applicable to all lots:
 - a. All road names shall be assigned by the Flathead County Address Coordinator and clearly identified and house numbers will be clearly visible from the road, either at the driveway entrance or on the house. House numbers shall be at least four inches in length per number. [Section 4.7.26(c), FCSR]
 - b. All utilities shall be placed underground. [Section 4.7.23, FCSR]

- c. The owners shall abide by the guidelines set forth in the approved Dust and Air Pollution Control and Mitigation Plan during and after site construction and development activities. [Section 4.7.14, FCSR]
 - d. Solid Waste removal for all lots shall be provided by a contracted solid waste hauler. [Section 4.7.22, FCSR]
 - e. Lot owners are bound by the Weed Control Plan to which the developer and the Flathead County Weed Department agreed. [4.7.25, FCSR]
13. The final plat shall comply with state surveying requirements. [Section 76-3-608(b)(i), M.C.A.]
 14. Where the aggregate total disturbed area of any infrastructure construction in the proposed subdivision as defined in A.R.M. 17.30.1102(28) is equal to, or greater than one acre; or where when combined with subsequent construction of structures such disturbed area will be equal to, or greater than one acre, a Montana State Department of Environmental Quality (DEQ) General Permit for Stormwater Discharges Associated with Construction Activity (General Permit) shall be obtained prior to any site disturbance or construction and a copy of the DEQ confirmation letter shall be provided to the Flathead County Planning & Zoning office prior to final plat approval. [17.30.1115 Administrative Rules of Montana (A.R.M.)]
 15. All required improvements shall be completed in place or a Subdivision Improvement Agreement shall be provided by the subdivider prior to final approval by the County Commissioners. [Section 4.0.16, FCSR]
 16. The final plat shall be in substantial compliance with the plat and plans submitted for preliminary plat review, except as modified by these conditions. [Section 4.1.13, FCSR]
 17. Preliminary plat approval is valid for three years. The final plat shall be filed prior to the expiration of the three years. Extension requests to the preliminary plat approval shall be made in accordance with the applicable regulations and following associated timeline(s). [Section 4.1.11 FCSR]

B. Project-Specific Conditions

18. The proposed phasing plan shall be implemented in accordance with the requirements of Section 4.4.2 of the Flathead County Subdivision Regulations; each development phase submitted for final plat review and approval shall be required to meet all conditions of approval established or identify where certain conditions have been previously met or are not applicable to the particular phase.
19. The proposed water supply for fire suppression shall meet all applicable requirements set forth in Section 4.7.26(e) of the Flathead County Subdivision Regulations.
20. Prior to final plat approval of the first phase and each subsequent phase the developer shall provide evidence that all applicable water right requirements of the Department of Natural Resources Water Resources Division have been met. [Section 4.7.20(d) FCSR]
21. The Riparian Resource Management Plan shall comply with 4.7.11 FCSR and be approved by the Commission. [Section 4.7.11, FCSR]
22. The applicant shall show proof of a completed approach permit from the Montana Department of Transportation for the approach of Mannington Road from Whitefish Stage for the additional traffic. [Section 4.7.16, FCSR]

23. Covenants, Conditions and Restrictions (CC&Rs) shall be recorded at the time of final plat describing the intended use, management, and ownership of the open space. [Section 5.09.020(8), FCZR]
24. A variance to allow for a 'flag lot' in SAG-5 zoned area shall be granted unless the access to the building envelop on Lot 21 is paved to requirements outlined in the Flathead County Road and Bridge Department *Minimum Standards for Design and Construction* including a compliant cul-de-sac or hammer head turn around. [Section 5.08.010 FCZR, Section 4.7.16 FCSR]
25. The following statements shall be placed on the face of the final plat:
 - e. Lot 21 is an Open Space lot pursuant to Section 5.09 Flathead County Zoning Regulations and is therefore prohibited from further divisions of land and may be used for the enjoyment of residents of the Whitefish River Trails development. [Section 5.09.020(8), FCZR]

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